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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,827	06/13/2000	Sherry X. Guo	LIFE-008	7505

7590

01/31/2003

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EXAMINER

GITOMER, RALPH J

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 01/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/593,827

Applicant(s)

Guo et al.

Examiner

Ralph Gitomer

Art Unit

1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 9, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6-11, and 16-27 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-11, and 16-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 9 6) ☐ Other: _____

The CPA request and IDS received 8/30/2002 have been entered and consequently the amendment of 6/3/2002 has now been entered. Claims 1, 6-11, 16-27 are currently pending in this application.

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The rejection of record of claims 1, 6-11, 16-23 under 35 USC 102(e) over Smith is maintained. The rejection of record of claims 24-27 under 35 USC 103(a) over Smith is maintained.

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Applicant's arguments filed 6/3/2002 have been fully considered but they are not persuasive.

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Applicants argue that the claimed stability is not inherent or obvious in view of the teachings of Smith. A declaration is provided by one of the inventors, Guo, stating that polysulfone matrix is not storage stable and that nylon matrix is storage stable. Further, Smith does not teach a kit.

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It is the examiner's position that all the components of the composition and structural features presently claimed are taught by Smith for the same function. The storage stability would therefor be inherent in the composition. Polyamide is clearly taught by Smith as a matrix for the same function as presently claimed.

Regarding the presently claimed kit directed to a test strip, a lance and a standard, no novelty is seen in such a kit.

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Claims 1, 6-11, 16-27 are rejected under 35 U.S.C. § 112,
second paragraph, as being indefinite for failing to particularly
point out and distinctly claim the subject matter which applicant
regards as the invention. Each of the following applies in all
5 occurrences.

In claim 1 and all occurrences, Nylon is a trademarked name
which is improper in claims and should be capitalized. In claim
6 ~~system~~ is not understood in context; does it refer to an
apparatus or composition? No system is seen. In claim 8
10 ~~analyte~~ is confusing because no analyte is seen.

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Ralph
Gitomer whose telephone number is (703) 308-0732. The examiner
15 can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm.
The examiner can also be reached on alternate Mondays. If
attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Michael Wityshyn can be reached on (703)
308-4743. The fax phone number for this Art Unit is (703) 308-
20 4556. Any inquiry of a general nature or relating to the status
of this application should be directed to the Group receptionist
whose telephone number is (703) 308-1235. For 24 hour access to

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Art Unit 1651

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Ralph Gitomer

Ralph Gitomer
Primary Examiner
Group 1651

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RALPH GITOMER
PRIMARY EXAMINER
GROUP 1651